

# **EXHIBIT 11**

STATE OF MICHIGAN

IN THE CIRCUIT COURT FOR THE COUNTY OF MACOMB

THE PEOPLE OF THE STATE OF MICHIGAN

- VS -

Case No. 87-0925-FC

MARK CLEARY,

Defendant.

PROCEEDINGS

BEFORE THE HONORABLE JAMES M. BIERNAT (P - 10793) JUDGE

MOUNT CLEMENS, MICHIGAN - WEDNESDAY, DECEMBER 14, 2004

APPEARANCES:

For the People:

MR. RICHARD GOODMAN (P34395)  
Macomb County Prosecutor's Office

For the Defendant:

MR. STEPHEN T. RABAUT (P31143)  
Attorney at Law

REPORTED BY:

ANGELA M. LITTLE, RPR, CSR-6444  
Certified Court Reporter  
(586) 469-5832

I N D E X

WITNESSES: PLAINTIFF

PAGE

None.

WITNESSES: DEFENDANT

EXHIBITS

ADMITTED

NONE OFFERED.

1 Mount Clemens, Michigan

2 Wednesday, December 14, 2004

3 At about 9:40 a.m.

4 \* \* \*

5 THE COURT: Calling the case of the People  
6 of the State of Michigan versus Mark Cleary. Counsel, please  
7 place your respective appearance on the record. You may  
8 remain seated at the counsel table.

9 MR. RABAUT: Stephen Rabaut appearing on  
10 behalf of Mr. Mark Cleary. Judge, Mr. Cleary is incarcerated  
11 with the Michigan Department of Corrections. He is not  
12 writted here but I would waive his appearance for today's  
13 proceeding.

14 THE COURT: Very well. The Court finds it  
15 unnecessary, does not consider this to be a critical step  
16 process. It may be an important but his presence is not  
17 critical to these proceedings and, therefore, the waiver is  
18 accepted. We will proceed without him.

19 MR. GOODMAN: For the record, your Honor,  
20 Richard Goodman, assistant prosecuting attorney, appearing on  
21 behalf of the People.

22 THE COURT: Okay.

23 This is the date and time set for the  
24 Court's decision on defendant's -- rather, the defense's  
25 motion to modify and obtain relief from judgment pursuant to

1 MCR 6.500 et seq. This case is the case of the People of the  
2 State of Michigan versus Mark Normam Cleary. Case No.  
3 87-0925-FC.

4 The defendant brings this motion for  
5 relief following his conviction on CSC first degree in  
6 violation of MCL 750.520 subsection (b)(1)(a) following a jury  
7 trial. The defendant was sentenced on March 15, 1989 to 240  
8 months to 360 months. A claim of appeal was filed as of right  
9 from the sentence of 3/15/1989 on court of appeals Docket No.  
10 118402. The appeal was denied and sentence was affirmed in a  
11 published opinion dated November 4, 1993. Application for  
12 leave was filed in the Michigan Supreme Court under Docket No.  
13 98212. That also was denied.

14 The defense has set forth a number of  
15 grounds for relief from judgment or, in support of the relief,  
16 requested amongst which are, as this Court perceives them to  
17 be, ineffective assistance of trial and appellate counsel,  
18 newly discovered evidence in the form of the deposition  
19 testimony from the sole complainant recanting her statement or  
20 testimony at trial, abuse of a trial court's discretion in an  
21 improper exclusion of possible verdict when instructing the  
22 jury, and improper remarks made by the prosecution during  
23 argument.

24 The issue of ineffective assistance of  
25 counsel was raised on appeal both in Michigan Court of Appeals

1 and the Michigan Supreme Court. The request at this time is  
2 for a Ginther hearing, but grant motion to modify and obtain  
3 relief from judgment pursuant to MCR 6.50.

4 The Court will first address the  
5 defendant's argument that pursuant to MCR 6.508 (d)(3)(a) good  
6 cause exist to grant defendant's motion for relief from  
7 judgment due to ineffective assistance of trial and appellate  
8 counsel. MCR 6.500 establishes the procedure for post-appeal  
9 proceeding challenging a criminal conviction. MCR 6.508  
10 entitled Procedure applies in the instant case subsection D;  
11 that is, Entitlement to Relief, requires that the defendant,  
12 Mark Cleary, demonstrate the following:

13 The defendant has the burden of  
14 establishing entitlement to the relief requested. The Court  
15 may not grant such relief to the defendant if the motion:

16 (1) Seeks relief from the judgment of  
17 conviction and sentence that is still subject to challenge on  
18 appeal pursuant to subchapter 7.000, or subchapter 7.300.  
19 That is not the case in this instance.

20 Secondly, that it alleges grounds for  
21 relief which were decided against the defendant in a prior  
22 appeal or proceeding under this subchapter unless the  
23 defendant establishes that a retroactive change in the law has  
24 undermined the prior decision.

25 (3) Alleges grounds for relief other than

1 jurisdictional defects which could have been raised on appeal  
2 from the conviction and sentence which a prior motion under  
3 this subsection unless the defendant demonstrates (a) good  
4 cause for failure to raise such grounds on appeal or in a  
5 prior motion and (b) actual prejudice from the alleged  
6 irregularities that support the claim for relief as used in  
7 this sub rule. Actual prejudice means under sub (i) in a  
8 conviction following a trial but for the alleged error the  
9 defendant would have had a reasonable -- reasonably or  
10 reasonable likely chance of acquittal.

11 In any case, in (3), subsection 3 thereof,  
12 reads as follows: In any case, the irregularity was so  
13 offensive to the maintenance of a sound judicial process that  
14 the conviction should not be allowed to stand regardless of  
15 its effect on the outcome of the case.

16 The Court may, of course, waive the good  
17 cause requirement under sub rule D (3)(a) if it concludes that  
18 there are significant possibilities that the defendant is  
19 innocent of the crime. I'm sorry. The defendant argues that  
20 good cause -- that pursuant to MCR 6.508 (d)(3)(a) good cause  
21 exist to grant defendant Mark Clearly's motion for relief from  
22 judgment due to ineffective assistance of trial and appellate  
23 counsel, newly discovered evidence in the form of a deposition  
24 testimony from the sole client recanting her testimony, abuse  
25 of a trial court judge's discretion in improper exclusion of

1 possible verdict when instructing the jury, and improper  
2 remarks made by the prosecutor during argument.

3 The Court, first of all, will deal with  
4 the issue of ineffective -- the claim of ineffective  
5 assistance of appellate and trial counsel. And at the outset,  
6 the Court finds that the defendant has not shown good cause  
7 for his procedural default nor actual prejudice which would  
8 warrant a grant of relief from judgment based on ineffective  
9 assistance of appellate and trial counsel.

10 The defendant herein has filed this motion  
11 under MCR 6.508(d). And in order to prevail on a motion for  
12 relief from judgment, the defendant has the burden to  
13 establish that he is entitle to such relief. The Court cannot  
14 grant relief to the defendant pursuant to this section under  
15 the following circumstances: If the defendant alleges grounds  
16 for relief which were decided against the defendant in a prior  
17 appeal or proceeding under this subchapter, unless the  
18 defendant establishes that a retroactive change in the law has  
19 undermined the prior decision, or (3) alleges grounds for  
20 relief other than jurisdictional defects which could have been  
21 raised on appeal from the conviction and sentence or in a  
22 prior motion under this subchapter unless the defendant  
23 demonstrates (a) reads as follows: Good cause for failure to  
24 raise such grounds on appeal or in the prior motion.

25 In order to be entitle to relief on a

1 nonjurisdictional issue, the defendant must establish good  
2 cause and actual prejudice from the irregularity. The  
3 defendant herein alleges that he can establish good cause due  
4 to the alleged ineffective assistance of appellate counsel in  
5 his first appeal. Cause for excusing procedural default is  
6 established by proving ineffective assistance of appellate  
7 counsel pursuant to the standards set forth in Strickland  
8 versus Washington. As by showing that some external factor  
9 prevented counsel from previously raising the issue.

10 The Michigan standard for ineffective  
11 assistance of counsel is the same as the federal standard.  
12 For a defendant to establish a claim that he was denied his  
13 state or federal constitutional right to effective assistance  
14 of counsel, he must show his attorney's representation fell  
15 below an objective standard of reasonableness and that this  
16 was so prejudicial to him that it denied him a fair trial.

17 However, it should be noted that our  
18 appellate court have ruled that an appellate attorney need not  
19 advance every arguably meritorious issue on appeal, nor must  
20 counsel raise every non-frivolous issue requested by the  
21 defendant. The federal courts of appeal have consistently  
22 held that the appellate courts are not to second guess the  
23 professional judgment of appellate counsel as to the issues  
24 raised on appeal even as to nonfrivolous issues.

25 The defendant in this matter has alleged

1 that his appellate counsel should have raised the issue of  
2 ineffective assistance of trial counsel for trial counsel's  
3 failure to object to the trial court's corrective instruction  
4 at the close of trial and his waiver of any corrections to the  
5 jury instruction.

6 The defendant alleges that the corrective  
7 jury instruction took from the jury the right to decide the  
8 elements of the case. In the present case, the Court's  
9 corrective -- in this court's view, the trial court's  
10 corrective instruction to the jury did not constitute a  
11 finding of fact by the trial court in regard to the issue of  
12 penetration, which effectively extinguished any factual  
13 controversy.

14 It should be noted that in her opening  
15 statement, the prosecutor stated to the jury that the  
16 defendant placed his penis into the victim's mouth as well as  
17 her vagina and place his mouth on her vaginal area. The  
18 victim testified that the defendant placed his penis in her  
19 mouth. In the closing argument, the prosecutor also argued  
20 that the victim testified that the defendant placed his potty,  
21 that is his penis, inside her mouth and she didn't like it.

22 During the instructions to the jury the  
23 Court stated that the prosecutor's theory of the case was  
24 sexual penetration by inserting his penis into her vagina or  
25 anus and by placing his mouth and lips on her vagina. There

1 was no mention of the act of him placing his penis in the  
2 victim's mouth in spite of the victim's testimony to the  
3 contrary.

4 Upon completion of the instructions, a  
5 side bar was held and the Court then gave a corrective  
6 instruction as to the prosecution's theory of the case. The  
7 defendant objected to only one line of that instruction and  
8 that being the words "... and it is also the People's theory  
9 that and there is evidence to the fact that the defendant,  
10 Mark Cleary, inserted his penis into Rachel's mouth."

11 That statement by the Court merely  
12 corrected the Court's admission of one of the sexual acts on  
13 which the prosecution's theory was based. The Court correctly  
14 pointed out that there was some evidence as to the commission  
15 of that act and again defined what constitutes penetration,  
16 which the prosecutor must prove beyond a reasonable doubt.

17 The Court finds that the corrective  
18 instruction was not misleading. The instruction did not  
19 direct the jury to find the fact of fellatio but merely  
20 pointed out that there was some evidence as to that act.  
21 There was no imperative language in this instruction. The  
22 instruction was proper and not prejudicial. The jury could  
23 have concluded that there was no fellatio if the victim's  
24 testimony was not credible. Moreover, the appellate counsel  
25 could have properly concluded that this issue was not a viable

1 issue.

2 She did raise the issue of ineffective  
3 assistance of counsel and a Ginther hearing was held on  
4 several of the alleged omissions. Moreover, appellate counsel  
5 is barred from raising the corrective jury instruction issue  
6 directly since counsel, by expression to the Court that there  
7 were no corrections, waived the issue for appellate review.  
8 Therefore, the defendant has failed to establish ineffective  
9 assistance of appellate and trial counsel by failing to  
10 overcome the strong presumption that counsel's actions  
11 constituted sound trial strategy, nor has he established  
12 sufficient prejudice on this issue.

13 The defense goes on to contend that  
14 appellate counsel provided ineffective assistance of counsel  
15 by failing to raise the issue of trial court or counsel's  
16 failure to object to the prosecutor's closing arguments. The  
17 defendant alleges that the prosecutor's statements calling the  
18 defendant a liar and commenting that the victim's storied had  
19 been inconsistent, shifts the burden of proof. It is, first  
20 of all, noted that whether an instance of prosecutorial  
21 misconduct exist is a question of whether or not the defendant  
22 was denied a fair trial.

23 Appellate review of prosecutorial remarks  
24 is generally precluded absent an objection because the trial  
25 court was deprived of an opportunity to cure the error. Here,

1 there was no objection. Without an objection, an appellate  
2 court will only read first if a curative instruction could  
3 have eliminated the prejudicial effect of the remarks, or when  
4 failure to review would result in a miscarriage of justice.

5 The fact the prosecutor called the  
6 defendant a liar where the defendant has testified is not in  
7 itself improper argument. The prosecutor may call the  
8 defendant or the witnesses liars. The prosecutor is at that  
9 point arguing the credibility of the witnesses. She may argue  
10 the witness is not worthy of belief where their testimony  
11 conflicts or arguably is incredible. The prosecutor is merely  
12 arguing that the defendant is not worthy of belief.

13 There was no error in this court's view  
14 and there was no prejudice. The Court cured any alleged error  
15 by giving cautionary instructions that the lawyers' arguments  
16 were not evidence. In light of those instructions, it cannot  
17 be said that the jury did not know that the burden of proof  
18 was solely on the prosecution. The prosecution in this case  
19 did not suggest that she had any personal knowledge of the  
20 facts, nor of the fact of facts not brought before the jury.  
21 The use of the term "we know" or "I know" in discussing  
22 evidence is not an expression of personal belief.

23 The Court finds the defendant was not  
24 denied a fair trial based upon the prosecutor's statement  
25 during the closing argument and counsel does not have to make

1 meritless objections or arguments. Moreover, the Court finds  
2 that the defendant is not entitled to a Ginther hearing since  
3 there are no factual issues to be resolved. Defendant has  
4 already had a Ginther hearing and to hold another Ginther  
5 hearing 14 years later poses an undue burden on the witnesses  
6 to be called. The Court agrees with the prosecution's  
7 position or argument that balancing the burden of conducting a  
8 hearing against the likelihood of the success of the  
9 defendant's claim, a Ginther hearing is unwarranted.

10 The Court now moves on to the issue of  
11 the newly discovered evidence. The defendant has argues a  
12 motion for a new trial based upon the recantation testimony of  
13 the victim in this case. A motion for a new trial based upon  
14 newly discovered evidence may be granted upon the showing  
15 that:

16 (1) The evidence itself, not merely it's  
17 materiality, is newly discovered; (2) the evidence is not  
18 merely cumulative; (3) the evidence is such as to render a  
19 different result probable on retrial; and (4) the defendant  
20 could not with reasonable diligence have produced it at trial.

21 First, the new evidence is in the form of  
22 a deposition of the complaining witness recanting her  
23 statements, her trial statements. The Court finds that this  
24 is newly discovered evidence. Approximately eight years  
25 following the trial, the complainant in a deposition recanted

1 her trial testimony. The deposition testimony was furnished  
2 both to the prosecution and to the Court as a part of the  
3 motion. The Court has reviewed this testimony taken  
4 August 27, 1997, wherein the complaining witness unequivocally  
5 recants her trial testimony regarding sexual assault.

6 The Court will not quote sections of this  
7 testimony at length since it is a part of the attachment to  
8 the pleadings, but there can be no doubt that it is directly  
9 contrary to the testimony given at trial. I will just read a  
10 portion thereof:

11 "Q: Do you recall during the trial of  
12 Mark Cleary, do you recall testifying that Mark touched you in  
13 the wrong way while you were living with your mother?

14 "A: Yes.

15 "Q: Was it true?

16 "A: No.

17 "Q: Why did you say that?

18 "A: We were at my mom's friend's house  
19 and my mom's friend had a son. We were in the garage and  
20 there were a bunch of dirty magazines there that I guess  
21 belonged to his father. We were looking at them and then we  
22 went to the back room. We didn't really do nothing. We just  
23 kind of fooled around. My sister came in and seen us and told  
24 her mom. My mom and her friend came in and took us out front  
25 and put Brian, her son, in front of the TV so that he could

1 watch TV. They took me into the dining room and started  
2 hitting me with a paddle. They kept asking me you know why I  
3 did this. And I was telling them, you know, why that we seen  
4 the magazines, and they just kept hitting me with the paddle.  
5 And then I said my daddy did it and that's all I said. They  
6 called my grandfather and everything came from that."

7 The deposition goes on with great  
8 specificity as to the recanting of the trial testimony and the  
9 reasons for the recantation. As I said, the deposition  
10 testimony of the complainant directly contradicts her trial  
11 testimony. Moreover, the Court had the opportunity to view  
12 the defendant testify at an evidentiary hearing held in this  
13 court on July 29, '04, during which she gave testimony which  
14 was consistent with her recantation in that meaning consistent  
15 with her deposition testimony referred to above. Moreover,  
16 during the testimony, she explained the reason for giving the  
17 deposition testimony.

18 The Court it turns now to the nature of  
19 the complainant's testimony at her deposition and hearing  
20 testimony. This testimony is not cumulative. The Court  
21 having gone through the trial transcript, which is rather  
22 lengthy, has determined that in actuality the complainant was  
23 the sole complaining witness in this case. For all practical  
24 purposes, after having reviewed the trial testimony, the Court  
25 was struck by the fact that there was no conclusive physical

1 evidence of sexual abuse. The examining doctor, Charles  
2 Barron, chief of pediatrics at Ford Hospital Northeast,  
3 testified that there were no specific findings correlated with  
4 penetration present on exam of the victim. Moreover, the  
5 doctor testified that during the examination of the victim's  
6 vaginal area, he did not find any scars or tears or anything  
7 like that.

8 Further, he testified there was no proof  
9 of penetration to the child's vaginal area. And finally, the  
10 doctor testified that the examination of the victim could be a  
11 normal finding without sexual abuse. Because in this case the  
12 complainant's testimony provided the basis for the conviction,  
13 and the victim now has recanted such statements, this coupled  
14 with the fact that there is no conclusive physical evidence of  
15 abuse, establishes that the newly discovered evidence is not  
16 merely cumulative.

17 The Court further considered whether the  
18 evidence is such to render a different result probable on  
19 retrial. The Court notes that the complainant was the sole  
20 complaining witness in this case and there was a lack of  
21 conclusive physical evidence of sexual abuse. The Court is  
22 also troubled by several other aspects of this case. At the  
23 time these allegation were -- these criminal allegations  
24 surfaced, the complainant's parents were going through a  
25 bitter custody battle. Based on examination of the trial

1 transcript, it appears to this court that there existed a  
2 hostile motive by the victim's mother directed at the  
3 defendant as well as the victim's hostile motive in blaming  
4 someone else to avoid getting into trouble.

5 As I said, at the time of the alleged  
6 abuse, the defendant and the complainant's mother were  
7 entrenched in a long custody battle, during which time Susan  
8 Schwarz denied the request by the defendant, Mark Cleary, for  
9 visitation during the custody battle. Further, the mother  
10 made allegations that the defendant would kidnap the children  
11 if he was allowed visitation. That allegation was considered  
12 and rejected by Referee James Connelly, who testified --  
13 that's Macomb County Friend of the Court Referee James  
14 Connelly -- who testified at the trial that he believed that  
15 the kidnap threat was groundless and seemed to have -- "seemed  
16 to have no basis in fact."

17 The complainant testified at the time that  
18 she made the allegation of sexual abuse by Mark Cleary, she  
19 was being spanked with a wooden paddle and screamed at by her  
20 mother. The complainant expressed, clearly expressed a  
21 hostile motive in avoiding trouble by blaming the defendant.  
22 As noted earlier, the complainant stated she was playing with  
23 her friend Brandon under the bed and when asked what she and  
24 Brandon were doing under the bed, the complainant testified  
25 that she told her mother we were fooling around under the bed.

1 The complainant testified that her mother got upset and took a  
2 wooden paddle and whipped her.

3 The complainant further testified that her  
4 mother was screaming at her and that her mother kept screaming  
5 at her and that she couldn't tell her anything. In response,  
6 the complainant testified that she told her mother that her  
7 father had did this. As a result, the complainant testified  
8 that her mother stopped hitting her at that moment and sat  
9 down and appeared ready to cry.

10 The Court also makes note of the fact that  
11 the complainant in this case testified in a deposition, that  
12 is, a statement made under oath, as well as having given sworn  
13 testimony to this court in open court under oath, not only  
14 without benefit of immunity but with the possibility of  
15 criminal charges being brought.

16 In the instant case, the deposition  
17 testimony and the hearing testimony, during that testimony the  
18 victim refutes her prior testimony at trial, and as noted  
19 there appears to be no physical evidence corroborating the  
20 victim's testimony at trial. The Court should say unequivocal  
21 evidence corroborating the victim's testimony at trial because  
22 the Court believe that there was some testimony from which  
23 inferences, contrary inferences might be drawn.

24 In this case, then, the sole witness to  
25 the allegation has recanted her testimony via deposition and

1 as a result lends further support to the possibility that  
2 there would have been a different result at trial had she  
3 testified at trial as she does now. The Court is further  
4 troubled by several aspects of this case.

5 Although the Court's concerns were not  
6 necessarily controlling in its decision, the Court wishes to  
7 address those concerns just briefly. The Court is troubled by  
8 the conducting of mock trials with the complaining witness  
9 before the trial of this case. Those mock trials apparently  
10 were conducted by the mother and a step -- I believe her  
11 stepfather at that time as well as the interviewing techniques  
12 which were employed in this case which appear to run contrary  
13 to accepted forensic interviewing protocol. These concerns  
14 support the -- well, let me move on.

15 It appears that the accepted protocol may  
16 not have been followed during the investigative stage. And,  
17 again, I won't get deeply into those concerns, but the length  
18 of the interviews, the fact that the interviewer had an  
19 ongoing therapeutic relationship with the complainant appears  
20 to be have been contrary to the forensic protocol. Moreover,  
21 it appears that the complainant's mother was playing court  
22 with the complainant despite the detective's in charge of this  
23 case directives not to do so. Moreover, the Court was  
24 concerned regarding the animosity shown by the complainant's  
25 mother and one Donna Simon against Mark Cleary in front of the

1 complainant.

2 The Court agrees that the existence of  
3 this newly discovered evidence in the form of deposition  
4 testimony as well as hearing testimony given by the  
5 complainant denying that the crime ever took place is  
6 compelling under the circumstances especially considering that  
7 she is subject to be being charged with the crime of perjury.  
8 Moreover, as the Court noted, this original charge was brought  
9 against the backdrop of a bitter custody dispute with charges  
10 having been brought regarding kidnapping by the victim's  
11 mother against the defendant.

12 Importantly, no conclusive physical  
13 evidence of sexual assault was introduced and there does  
14 appear to have been some inappropriately suggestive  
15 interviewing techniques that increased the possibility or  
16 likelihood of implanting false allegations into a child's  
17 memory.

18 Taking all of these things together, the  
19 Court concludes that the defendant would have a reasonable  
20 likelihood of acquittal. Under these circumstances, the Court  
21 has no alternative but to grant the motion for a new trial.  
22 Please prepare an order to that effect.

23 MR. RABAUT: Thank you, your Honor. Can I  
24 address the Court on another issue?

25 THE COURT: Yes.

1 MR. RABAUT: Mr. Cleary, as I indicated  
2 to the Court, is in the Michigan Department of Corrections.  
3 I'm wondering if the court would do one of the two following  
4 things: Either consider a bond motion right now, or in the  
5 alternative, have Mr. Cleary writted here within the next  
6 seven days and allow me to argue a bond motion at that time?

7 THE COURT: I will abide by the second,  
8 the latter suggestion. We'll writ Mr. Cleary here. However,  
9 it may -- Mr. Goodman, it may take more than seven days?

10 MR. GOODMAN: Probably. At least seven.

11 MR. RABAUT: Could we set it within seven,  
12 Judge, and see if it can be expedited due to the findings from  
13 the Court?

14 THE COURT: Unfortunately, I will not be  
15 here. It has to be the first week of January.

16 MR. GOODMAN: One moment, your Honor.

17 (Brief pause)

18 MR. GOODMAN: May we approach, Judge?

19 THE COURT: Yes.

20 (At about 10:18 a.m., bench conference  
21 held)

22 (Back on the record)

23 THE COURT: We'll address this matter  
24 later on today and we'll move on to other matters right now.

25 MR. RABAUT: Thank you, Judge.

(Proceedings concluded)

\* \* \*

1 STATE OF MICHIGAN )  
2 ) SS  
3 COUNTY OF MACOMB )  
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5 CERTIFICATE OF NOTARY PUBLIC  
6

7 I, Angela M. Little, Certified Court Reporter in the  
8 State of Michigan, do hereby certify that the foregoing pages,  
9 1 through 23, inclusive, comprise a full, true, and correct  
10 transcript of the proceedings had in the matter of THE PEOPLE  
11 OF THE STATE OF MICHIGAN, Plaintiff, versus MARK NORMAN  
12 CLEARY, Defendant, Case No. 87-0925-FC, on Wednesday, December  
13 14, 2004.  
14

15 

16 ANGELA M. LITTLE - RPR, CSR-6444  
17 Notary Public in and for the  
18 State of Michigan

19 DATED: 3/1/05  
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